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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,819	01/31/2005	Yutaka Shibui	01165.0935	4699
22852	7590	05/09/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER SCHWARTZ, DARREN B	
			ART UNIT	PAPER NUMBER
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			05/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,819

Applicant(s)

SHIBUI ET AL.

Examiner

DARREN SCHWARTZ

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 05-04-05
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "basically" in claim 6 is a relative term which renders the claim indefinite. The term "basically" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Berstis (U.S. Pat 6564005 B1), hereinafter referred to as Berstis.

Re claim 1: Berstis teaches a program unauthorized-use preventing device comprising:

a storage section [Fig 2, elt 220] for storing various optional operation programs in a machine tool (col 5, lines 53-55);

a display section [Fig 1A, elt 105] (col 3, lines 31-32) for displaying a first program-selection image [Fig 3, elt 310; Fig 4: "Master User Menu"] and a second program-selection image [Fig 7, elt 410; Fig 8: "User Menu"] (col 7, lines 23-30; col 8, lines 9-14), separately from each other (Fig 4, Fig 8; only one of the "Master User Menu" or "User Menu" can be displayed at any one time; Fig 4 and Fig 8 are clearly distinct), a desired one of said operation programs being allowed to be selected on respective first (Fig 4: "Master User Menu;" col 7, lines 25-30) and second program-selection images (Fig 8: "User Menu;" col 8, lines 11-14); and

a processing section [Fig 1A, elt 102] for processing to read out (col 3, lines 31-32), when a device inherent password [master user password] is input (Fig 3, elts 302 & 304; col 7, lines 14-16), said desired operation program selected on said first program-selection image from said storage section (col 5, lines 53-55; col 7, lines 23-35 and lines 43-46) and bring said desired operation program into a usable state (col 31-35: the "New user Menu" is shown), while to read out, when a machine-tool inherent password [user password] different from said device inherent password is input (Fig 7, elts 402 & 404; col 8, lines 5-8), said desired operation program selected on said second program-selection image from said storage section (col 5, lines 53-55; col 8, lines 21-22) and bring said desired operation program into a usable state (col 8, lines 15-21).

Re claim 2: Berstis further teaches said storage section includes a program storage area for storing said various optional operation programs and an image storage

area for storing said first and second program-selection images (col 5, line 53-55; col 6, lines 28-35 and lines 38-40); and

wherein said processing section processes to read out (col 3, lines 31-32), when said device inherent password [master user password] is input (Fig 3, elts 302 & 304; col 7, lines 14-16), said first program-selection image from said image storage are (col 5, lines 53-55; col 7, lines 23-35 and lines 43-46) and make said display section display said first program-selection image (Fig 3, elt 310; col 7, lines 23-30), while to read out (col 3, lines 31-32), when said machine-tool inherent password [user password] is input (Fig 7, elts 402 & 404; col 8, lines 5-8), said second program-selection image from said image storage area and make said display section display said second program-selection image (Fig 7, elt 410; col8, lines 9-13).

Re claim 3: Berstis further teaches wherein said processing section processes to bring, when selection of said operation program is performed respectively on said first and second program-selection images, only said desired operation program selected on said second program-selection image into a usable state (col 6, lines 54-65).

Re claim 6: Berstis further teaches said first and second program-selection images have an image configuration basically identical to each other (Fig 4 and Fig 7 have a menu title name and a plurality of options for the user from which he/she may choose).

Re claim 7: Berstis further teaches configured to be incorporated into a numerical control device (col 5, lines 2-5; col 11, lines 17-20).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis (U.S. Pat 6564005 B1), hereinafter referred to as Berstis, in view of Arnold (U.S. Pat 5956408 A), hereinafter referred to as Arnold.

Re claim 4: Berstis teaches an interface section connectable to an external storage unit storing specific data (col 2, lines 31-35); wherein said processing section processes, through said interface section, said desired operation program selected on said second program-selection image into a usable state (col 10, lines 56-64).

However, Arnold teaches: to identify a validity (Fig 3, elt 160: digital signature) of said specific data (Fig 3, elt 100; col 6, lines 66-67) stored in said external storage unit (col 6, lines 62-65) and bring (Fig 3, elts 140 & 180), only when said specific data are judged to be valid (Fig 3, elts 160, 170 & 180; col 7, lines 31-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have been modified Berstis to validate external data usable by said security device for the purpose of using authenticate data provided on an external medium.

Re claim 5: Berstis teaches an interface section connectable to an external computer in turn connectable to an external storage unit storing specific data (col 2,

lines 31-35); said desired operation program selected on said second program-selection image into a usable state (col 10, lines 56-64).

However, Arnold teaches: wherein said processing section processes to bring, only when said external computer judges said specific data stored in said external storage unit (col 6, lines 62-65) to be valid (Fig 3, elts 160, 170 & 180; col 7, lines 31-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have been modified Berstis to validate external data usable by said security device for the purpose of using authenticate data provided on an external medium.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat 5931948 A

U.S. Pat 6012146 A

U.S. Pat 6665800 B1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARREN SCHWARTZ whose telephone number is (571)270-3850. The examiner can normally be reached on 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571)272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. S./
Examiner, Art Unit 2135
5/9/2008